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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,406	<b>Applicant(s)</b> ATWOOD, DARRELL J.	
	<b>Examiner</b> Timothy M. Ayres	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/08/03</u> . | 6) <input type="checkbox"/> Other: ____  |

### **DETAILED ACTION**

This is a first office action on the merits of application SN 10/730,406.

#### ***Claim Objections***

1. Claim 27 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The case body being stackable is recited in claim 16 which 27 is dependent on.
2. There are two claim 24s, one directed to opposing compartment panel receiving grooves and a second to sidewall mirrors. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered second claim 24 and following claims have been renumbered 25-28.

***Specification***

3. The disclosure is objected to because of the following informalities: On page 9, line 11 of the specification the rear storage compartment is designated as element 10 whereas the drawing figures appear to be labeled as 20.

Appropriate correction is required.

***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the model packaging box of claims 4, 5 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the compartment panel of claim 1, which divided the case into a forward display compartment and a rear storage compartment, allows viewing behind the display shelf.

8. Claim 9 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the compartment panel is connected to the dual panel receiving grooves and the compartment panel receiving grooves.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 5, 11, and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding claim 11 and 26, it is unclear what subset of material "similar material" in line 3 of claim 11 includes.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

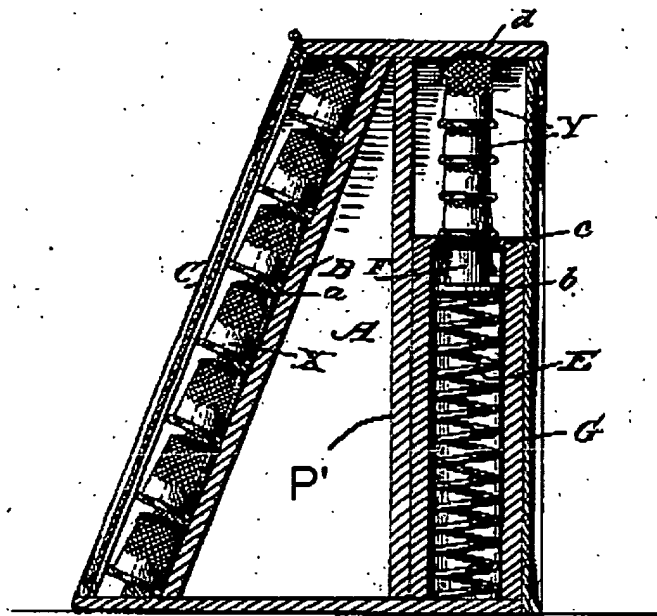
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3, 11, 12, 16, and 17 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 764,529 to Ingalls. Ingalls teaches a display case with a case body (A) made up of a base member, a lid member (d), a rear panel (G), and an observation panel (C) with a glass window. A compartment panel (P') divides the case into a front compartment with goods (X) and a rear compartment with goods (Y). A display shelf (B) with a display stop (a) is sloped so that it extends from the base to an upper edge of the compartment panel. The display shelf (B) extends across the width of the observation panel. The glass observation panel (C) is pivotally about the lid, which makes it removable. The base member and the lid member are parallel, which makes

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them capable of being stacked. The rear compartment has support ledge (c) to elevate goods (Y). Goods (X, Y) are disclosed as thimbles though inherently can be a model-packaging box. Therefor the support ledge (c) is the means for suspending the model-packaging box.



Ingalls '529 Figure 2

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

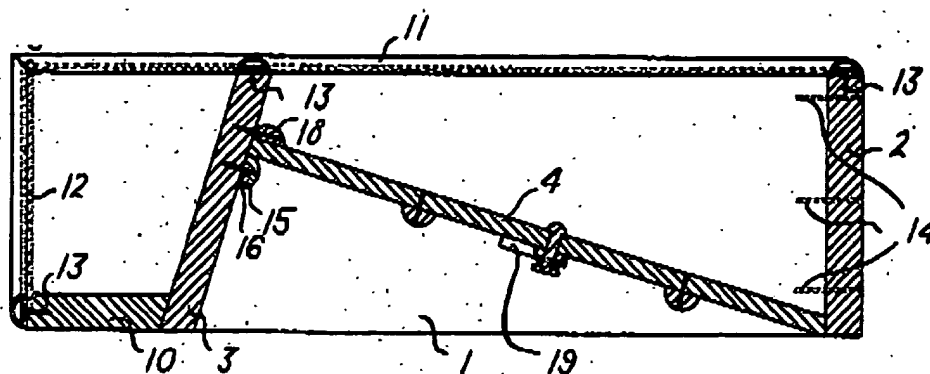
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15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

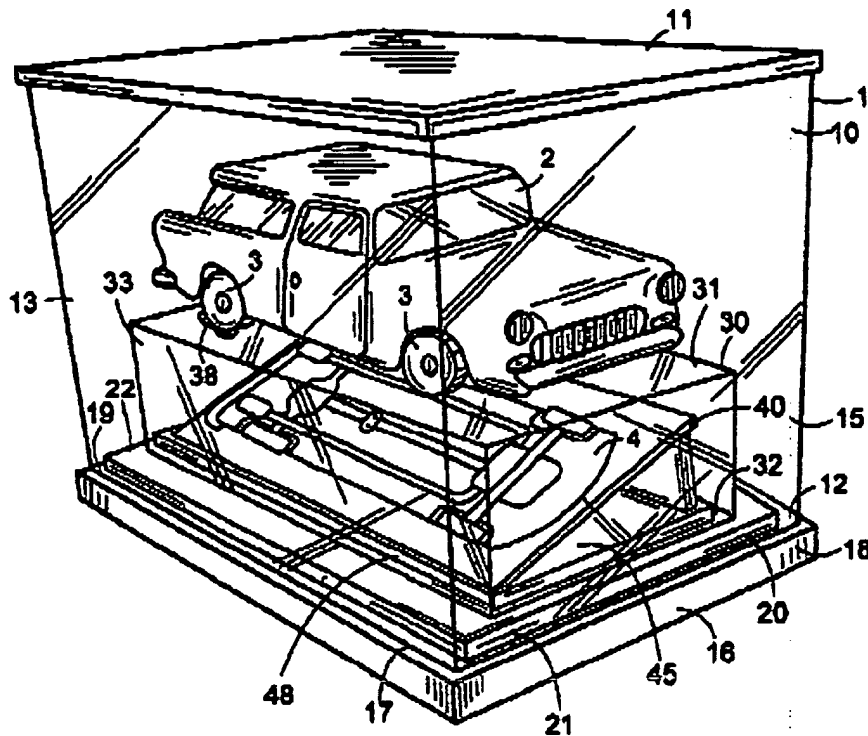
16. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 2,255,702 to Gannaway. Ingalls discloses every element as claimed and discussed above except the means to suspend a model-packaging box above the rear edge of the display shelf. Gannaway teaches a display shelf (4) that has a rear edge attached to a compartment panel (3). At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the teaching of Gannaway to lower the point where the rear edge of display shelf (B) of Ingalls meets the Compartment panel (P') so that there is more room between the lid and the display shelf. By lowering the display shelf the goods (Y) of Ingalls will be between the lid and the display shelf rear edge. The goods (Y) are able to be viewed from the back side.





Gannaway '702 Figure 2

17. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 6,722,747 to House. Ingalls discloses every element as claimed and discussed above except the compartment panel is a mirror panel. House teaches using a mirror panel (4) to be able to see the underside of a car in a display housing (1). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the compartment panel of Ingalls by making it a mirrored surface as taught by House to see the other side of the object without having to remove the object (House '747, col. 1, lines 28-30).

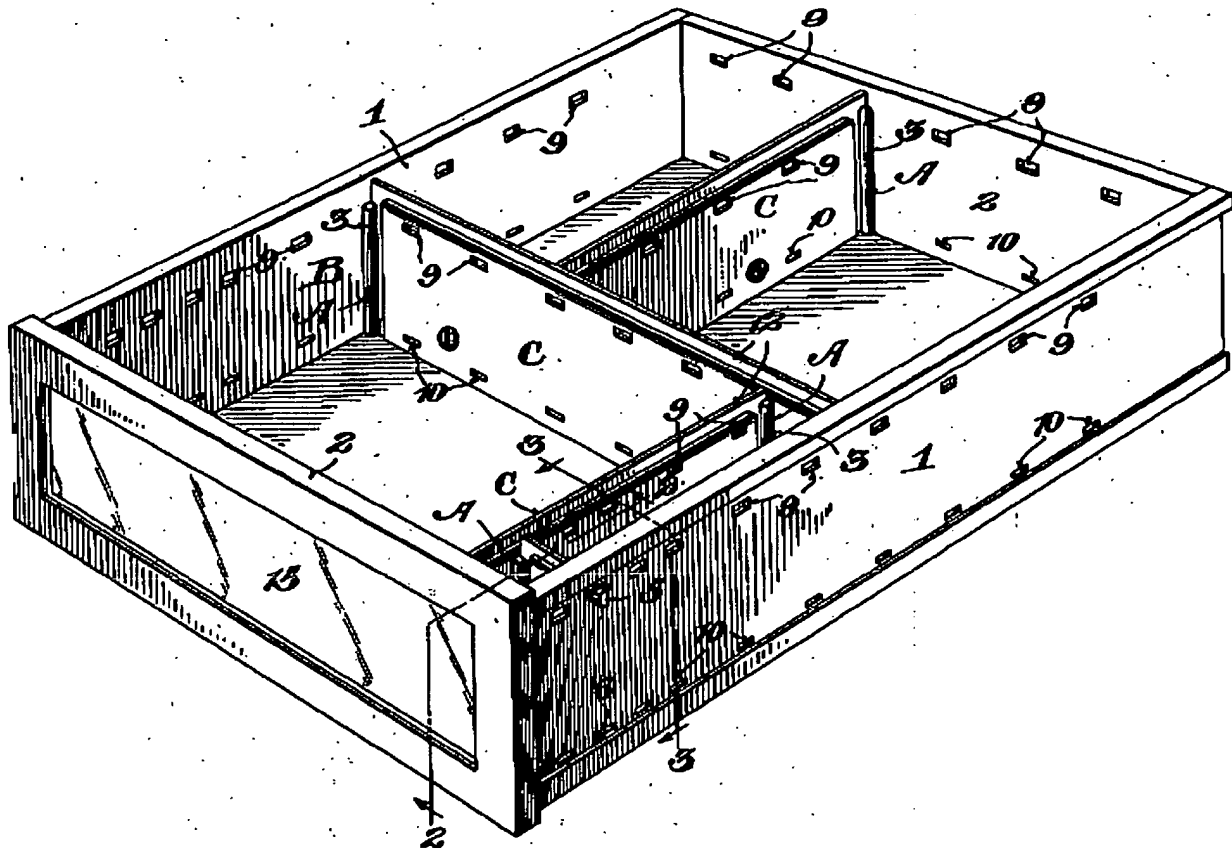


House '747 Figure 1

18. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 1,677,544 to Brainard. Ingalls discloses every element as claimed and discussed above except the compartment panel is removable and is received by parallel compartment panel receiving grooves. Brainard teaches removable compartment panels (C) that slide in grooves created between holders (A) on the sides of a drawer. At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the teaching of Brainard to make the compartment panel of Ingalls removable in parallel compartment panel

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receiving grooves so that the space between display shelf (B) and the compartment panel (P') can be accessed.

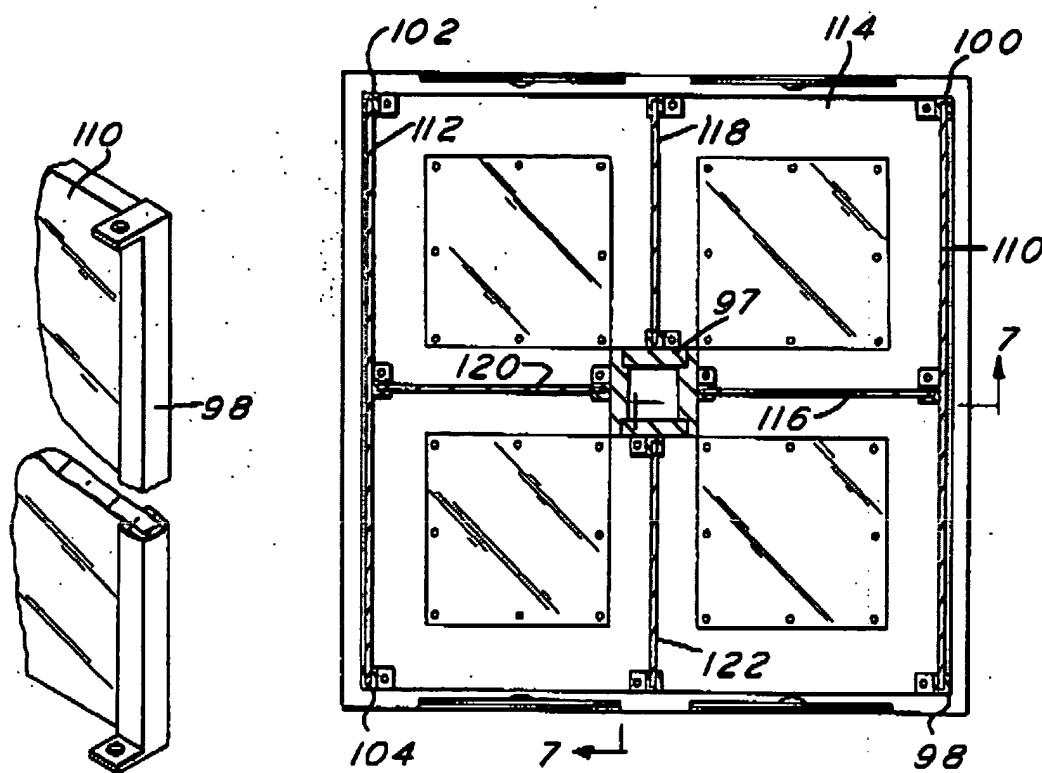


Brainard '544 Figure 1

19. Claim 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 3,717,395 to Spielvogel. Ingalls discloses every element as claimed and discussed above except the window is received by parallel panel storage grooves in opposing side walls and the observation panel is a frame. Spielvogel discloses a window panel (110) that is received by grooves in a frame (98). At the time of the invention it would have been obvious for a person of ordinary

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skill in the art to take the teaching of Spielvogel and modify the display case of Ingalls by making the glass panel (C) and adding a frame to it so that the glass panel (C) is sturdier.



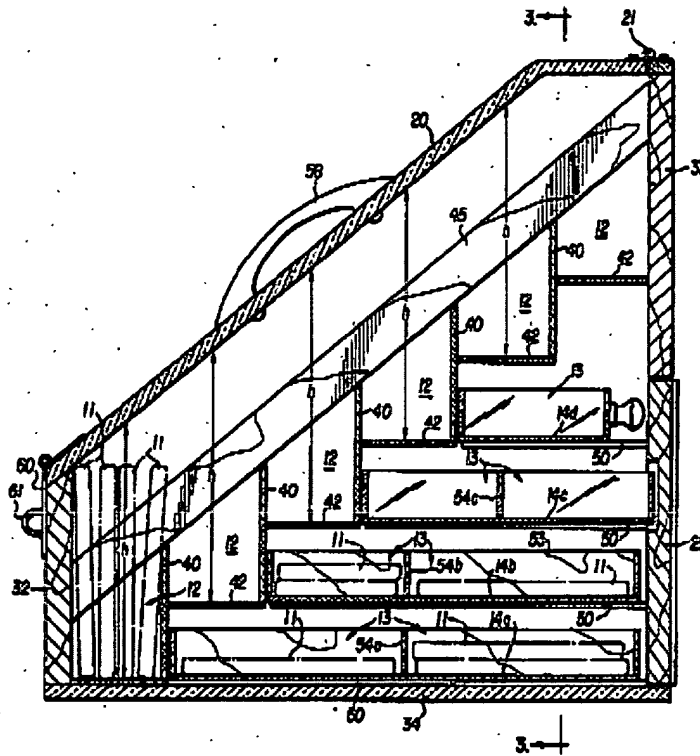
Spielvogel Figure 8

Spielvogel Figure 6

20. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 4,285,558 to Medford. Ingalls discloses every element as claimed and discussed above except the lid member is pivotally attached. Medford discloses a display case with a lid (20) that is pivotally attached at hinge (21). At the time of the invention it would have been obvious for a person of

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ordinary skill in the art to take the display case of Ingalls and use the teaching of Medford to add a rotatably lid to allow greater access to the compartments.



Medford '558 Figure 1

21. Claim 18-24, 27, and 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 2,255,702 to Gannaway and US Patent 1,677,544 to Brainard.

22. Ingalls teaches a display case with a case body (A) made up of a base member, a lid member (d), a rear panel (G), and an observation panel (C) with a glass window. A compartment panel (P') divides the case into a front compartment with goods (X) and a

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rear compartment with goods (Y). A display shelf (B) with a display stop (a) is sloped so that it extends from the base to an upper edge of the compartment panel. The display shelf (B) extends across the width of the observation panel. The glass observation panel (C) is pivotally about the lid, which makes it removable. The base member and the lid member are parallel, which makes them capable of being stacked. The rear compartment has support ledge (c) to elevate goods (Y). Goods (X, Y) are disclosed as thimbles though inherently can be a model-packaging box. Therefor the support ledge (c) is the means for suspending the model-packaging box.

23. Ingalls does not expressly disclose the means to suspend a model-packaging box above the rear edge of the display shelf. Gannaway teaches a display shelf (4) that has a rear edge attached to a compartment panel (3). At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the teaching of Gannaway to lower the point where the rear edge of display shelf (B) of Ingalls meets the Compartment panel (P') so that there is more room between the lid and the display shelf. By lowering the display shelf the goods (Y) of Ingalls will be between the lid and the display shelf rear edge. The goods (Y) are able to be viewed from the back side.

24. Ingalls in view of Gannaway does not expressly disclose the compartment panel is removable and is received by parallel compartment panel receiving grooves.

Brainard teaches removable compartment panels (C) that slide in grooves created between holders (A) on the sides of a drawer. At the time of the invention it would have been obvious for a person of ordinary skill in the art to use the teaching of Brainard to make the compartment panel of Ingalls in view of Gannaway removable in parallel

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compartment panel receiving grooves so that the space between display shelf (B) and the compartment panel (P') can be accessed.

25. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 764,529 to Ingalls in view of US Patent 2,255,702 to Gannaway and in further view of US Patent 1,677,544 to Brainard as applied to claim 18 above, and further in view of US Patent 6,722,747 to House. Ingalls in view of Gannaway and in further view of Brainard discloses every element as claimed and discussed above except the compartment panel and the sidewalls are mirrored surfaces. House teaches using a mirror panel (4) to be able to see the underside of a car in a display housing (1). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the compartment panel and the side walls of Ingalls modified by Gannaway and further modified by Brainard and use the teaching of House to make it a mirrored surface to see the other sides of the objects (X, Y).

***Allowable Subject Matter***

26. Claim 9 and 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 852,229 to Joyce discloses a display case with a window panel and compartment panel that rotate to allow access to a rear compartment. US Patent 2,023,260 to Beers discloses a display case with a glass panel receiving in grooves of a frame. US Patent 1,106,543 to Burnham discloses a display case with a front observation panel and a rear compartment. European Patent 0,638,269 to Kozak discloses rear and front compartment in a display case. US Patent 5,690,402 to Koppe discloses a display case with a display shelf and compartment panel pivotally opened to allow access to a rear compartment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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